

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
Civil Action No. 3:19-CV-226-RJC-DSC

LISA CAROL RUDISILL,

Plaintiff,

v.

NORTH CAROLINA STATE BOARD OF
ELECTIONS,

Defendant.

DEFENDANT’S
MOTION TO DISMISS
(Fed. R. Civ. P. 12(b)(1), 12(b)(6))

Defendant North Carolina State Board of Elections, through the undersigned counsel, hereby moves the Court, pursuant to Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure, to dismiss Plaintiff’s Complaint.

In support of this Motion, Defendant has contemporaneously filed a Memorandum of Law providing authorities in support of the following arguments for dismissal:

1. The Complaint names the State Board. As an agency of the State, however, the State Board is immune from suit in federal court under the Eleventh Amendment.
2. Plaintiff lacks standing to assert any of her claims, which may only be brought by the party injured by the State Board’s investigation and decision—candidate Mark Harris.
3. The *Burford* abstention doctrine applies because the Complaint seeks to insert a federal court into a state’s administrative proceedings.

4. The Complaint's factual allegations fail to state a plausible claim.

Also in support of this motion, Defendant is filing **four exhibits**, which are attached to and cited within Defendant's Memorandum of Law.

WHEREFORE, the Defendant respectfully prays that this Court dismiss this action against it.

This the 7th day of June, 2019.

JOSHUA H. STEIN
Attorney General

/s/ Paul M. Cox
Paul M. Cox
Special Deputy Attorney General
N.C. State Bar No. 49146
Email: pcox@ncdoj.gov
N.C. Department of Justice
Post Office Box 629
Raleigh, NC 27602-0629
Telephone: (919)716-6900

CERTIFICATE OF SERVICE

I hereby certify that on this day I electronically filed the foregoing
DEFENDANT’S MOTION TO DISMISS with the Clerk of Court using the CM/ECF
system and have placed a copy in the U.S. Mail, postage prepaid, to the plaintiff who is a
non-CM/ECF user, as follows:

Lisa Carol Rudisill
7101 Londontowne Dr.
Charlotte NC 28226
godslisaru@aol.com

This the 7th day of June, 2019.

/s/ Paul M. Cox
Paul M. Cox
Special Deputy Attorney General